

## **SECTION 4 - PUPIL RESIDENCY**

“District of Residence” is defined as the district in which a pupil's custodial parent or parents or legal guardian resides. However, there are many exceptions for which the pupil may be counted as a “resident” of the educating district although the pupil or the pupil’s parent(s) may not reside within the school district boundaries. Those instances are reviewed in “A. Resident Pupils” below.

A nonresident pupil is a pupil whose parent(s) or legal guardian does not reside within the educating district's school boundaries and the pupil is less than 18 years of age. Such a pupil may be counted for membership purposes if the pupil has obtained the approval of the resident district; or, if the nonresident pupil meets one of the many exceptions for which the approval of the resident district is not a requirement. These exceptions are reviewed in “B. Nonresident Pupils”

### **A. Resident Pupils**

It is the district's responsibility to determine if a pupil is a resident of the district keeping in mind that circumstances may allow a nonresident pupil to be counted as a resident of the district for pupil membership purposes. A local or intermediate school district may count a pupil as a “**resident pupil**” if the district has evidence that the pupil meets **one** of the following criteria:

- U The pupil's parent(s) reside in a dwelling in the district. If the pupil's parents reside separately in different districts, either district may enroll the pupil as a resident, regardless of which parent has custody.
- U The pupil lives with a relative other than a parent in a dwelling within the district for the purposes of securing a suitable home and not solely for educational purposes. For pupil accounting purposes, a relative is defined as a parent, grandparent, brother, sister, stepparent, step-grandparent, stepsister, stepbrother, uncle, aunt, first cousin, great aunt, or great uncle *by marriage, blood or adoption*. Any relative outside of this definition would be quite unusual; therefore, districts are urged to request some evidence that the familial relationship, rather than some other reason, is the actual basis for the placement of the child in the home.
- U The pupil is 18 years of age or an emancipated minor and resides in the district.
- U The pupil resides in a licensed home in which he/she was placed by court order or by a child placing agency, the child is considered a resident of the district where the home in which the child is living is located for pupil accounting purposes.
- U The pupil has been issued an F-1 Visa and resides in the district.
- U The pupil is a foreign exchange student living with a host family whose members are residents of the district.
- U The pupil is a homeless child per the McKinney Homelessness Act, 42 USC 11431.

Note: The Power of Attorney is not a court order; thus, the Power of Attorney in and of itself does not establish residency by operation of law. The Power of Attorney granted to a relative which establishes that the child is residing with the relative for the purpose of a suitable home does establish that the child is a resident of the district for educational purposes. A Power of Attorney with a relative for educational purposes does not establish residency. A child placed with a person other than a relative of the child under a Power of Attorney does not become a resident of the district.

## **B. Nonresident Pupils**

A nonresident pupil is a pupil that resides outside of the school district boundaries and does not meet any of the criteria under “Resident Pupil.” The educating district must have approval from the pupil's district of residence to count that pupil for membership purposes, **except** the resident district's approval is not required for pupils enrolled in a Public School Academy or the Michigan Virtual High School, or a pupil enrolled under schools of choice programs, cooperative agreements, or any of the other exceptions under Section 6(6) of the State School Aid Act. Approval from the resident district is not required for the following situations.

### **1. District of Residence Approval Not Required**

#### **a. Pupil Enrolled in a Public School Academy or University School**

A pupil enrolled in a public school academy shall be counted in membership in the public school academy. A pupil enrolled in a university school shall be counted in membership in the university school. Approval by the pupil's district of residence shall not be required for those pupils enrolled in a public school academy or a university school. These pupils are treated as “residents” of the educating district and shall not be charged tuition.

#### **b. Pupils Enrolled in the Michigan Virtual High School**

Pupils enrolled in courses through the Michigan Virtual High School are enrolled under a cooperative agreement between the Michigan Virtual High School and the educating district. Pupils, who are enrolled in these classes, are counted by the educating district. The educating district is responsible for any fees and supplies.

#### **c. Section 105 and 105c Schools of Choice Pupils**

Pupils enrolled under Section 105 of the State School Aid Act must be a resident of a district within the intermediate school district's boundaries. Pupils enrolled under Section 105c of the State School Aid Act must be a resident of a district within an intermediate school district contiguous to the boundaries of the educating district's intermediate school district. In no case may districts charge tuition for pupils who are enrolled in the district pursuant to Section 105 or 105c. A local school district

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that elects to operate a Section 105 or a Section 105c **Schools of Choice program** may count a nonresident pupil in membership if the district has evidence that the pupil meets **one** of the following criteria:

- U The pupil is a nonresident, but is a resident of another district within the same ISD. The local district may only count this pupil in membership if all Schools of Choice 105 requirements have been met.
- U The pupil is a nonresident, but is a resident of another district within an ISD that is contiguous to the educating district's ISD. The local district may only count this pupil in membership if all Schools of Choice 105c requirements have been met.
- U The pupil is a nonresident but has been enrolled continuously in the district since a year in which the district enrolled nonresident pupils in accordance with Section 105 or 105c.
- U The pupil was enrolled in and attended the district in the school year immediately preceding the school year in question. A district shall give preference to this pupil, along with other school-age children who reside in the same household as the pupil.
- U The pupil was enrolled in and attended school in the district as a nonresident pupil in the 1995-96 school year and continues to be enrolled each school year in that district. The district shall allow this nonresident pupil to continue to enroll in and attend school in the district until high school graduation without requiring the pupil to apply for enrollment in the Schools of Choice program.

Note: A local school district that enrolls a **special education pupil under a schools of choice program** will become that pupil's resident district for purposes of developing and implementing an individualized education plan (IEP), and will become responsible for the education of the pupil and for providing (or arranging for the provision of) services for the pupil. Section 105c (contiguous) contains an additional requirement that the choice district must enter into a written cooperative agreement with the special education pupil's resident district as to the payment of added costs associated with the pupil's programs and services.

**d. ISD's Schools of Choice**

A pupil enrolled in a district other than the pupil's district of residence under Section 91(a) or under an ISD's Schools of Choice pilot program under former Section 91 shall be counted by the educating district. (At least 50% of the ISD's constituent districts must continue to participate in the Schools of Choice pilot program under former Section 91.) Such a district is exempt from Sections 105 and 105c. (For additional information see Non-Conventional Pupils - Schools of Choice.)

**e. Cooperative Education Programs**

Pupils educated as part of a cooperative education program such as special education center programs or non-center programs, career and technical education programs, or pupils enrolled in a grade not offered by the district of residence (example: pupils in grades 9-12 who are residents of a K-8 school district) shall be counted in membership by the educating district unless specified otherwise in the cooperative agreement. The resident district is responsible for any agreed-upon amount of tuition or other payment for pupils educated outside of the boundaries of the pupil's district of residence under a cooperative agreement. The responsibility for reporting the pupil's attendance is explained in more detail in the Non-Conventional Pupil - Cooperative Education Programs section of this manual.

**f. Alternative Education Program Pupils**

A pupil enrolled in an alternative education program who has been suspended or expelled from his or her resident district for any reason, including, but not limited to Section 1310, 1311 or 1311a of the Revised School Code, may be counted in membership. A pupil who previously dropped out of school, is pregnant or is a parent, or a pupil who has been referred to the program by the court may enroll in the alternative education program without the resident district's approval. See Non-Conventional Pupils - Alternative Education Program to determine which district counts the pupil.

**g. Pupil Moved Out of the District**

A pupil whose district of residence changed after the pupil membership count date and before the supplemental count day and who continues to be enrolled on the supplemental count day as a nonresident in the district in which he or she was enrolled as a resident on the pupil membership count day of the same school year may be counted in membership by the educating district. This pupil **MUST** be reported as a nonresident.

**h. Non-Public Part Time Pupils**

Approval by the pupil's district of residence is not required for a nonpublic part-time pupil in grades 1 to 12 enrolled in nonessential elective courses in accordance with Section 166b of the State School Aid Act. Shared time pupils are enrolled under a cooperative agreement between the educating district and the nonpublic school or the educating district and the home-school parent. Shared time pupils are counted by the educating district for that portion of time that this pupil is enrolled in nonessential courses. (See Non-Conventional Pupils - Nonpublic Part Time.)

i. **Split Schedule**

An inter-district split schedule pupil is a pupil who attends the resident district for part of the day and a second district for part of the day but not as part of a cooperative agreement. The sum of the FTE at both districts may not exceed 1.0 full FTE. The approval from the resident district is not required if such a pupil is receiving half or less of his or her pupil instruction at the nonresident district. The enrolling district may count the pupil on a pro-rata basis. (See Non-Conventional Pupils - Split Schedule.)

j. **Criminal Sexual Assault or Serious Assault**

A pupil who has made an official written complaint to law enforcement officials and to school officials of the pupil's district of residence that he or she has been the victim of a criminal sexual assault or other serious assault that happened on school grounds or at a school function or was committed by one or more other pupils enrolled in the district or by an employee of the district, that pupil does not need the resident district's approval to enroll in another district. The educating district may count the pupil.

k. **Pupils Educated by the Intermediate School District**

Special Education pupils educated by the intermediate school district shall be counted by the ISD. General education pupils placed in an on-grounds child caring institute or a juvenile detention facility and being educated by the intermediate school district shall be counted by the ISD. All other general education pupils are counted by the resident district.

l. **Pupils Educated at the Michigan School for the Deaf and Blind**

The pupil enrolled in the Michigan Schools for the Deaf & Blind shall be counted by the ISD of residence.

m. **Special Education Center Program**

The pupil educated in a special education center program shall be counted by the district or intermediate district operating the center program. Special Education pupils are not considered tuition pupils.

n. **Children of Employees**

A district may enroll and count in membership without a release the children of district employees who reside in another Michigan school district. Tuition may not be charged. These pupils are to be reported as nonresident pupils. (Note: The district is not required to enroll employee's children but the district should have a board policy adopted to ensure equitable treatment of this group of nonresident pupils.)

**2. District of Residence Approval is Required**

A district that enrolls a nonresident pupil that does not meet any of the exceptions above must have the approval of the resident district to count that pupil for membership purposes. Examples of pupils for whom the resident district's approval are required in order to count for pupil membership purposes is as follows:

**a. Non-K12 Pupil**

A Non-K12 pupil is a pupil whose **resident district** does not offer all grade levels K through 12. The educating district may have enrolled such a pupil in a grade level not offered by the Non-K12 district or enrolled such a pupil in a special education program under a cooperative agreement with the resident district. A district that enrolls a pupil in a grade level that is not offered by the district of residence and not as part of a cooperative program must have the approval of the district of residence to count the pupil. The pupil shall be counted by the educating district.

**b. Parent Request**

A district that enrolls a nonresident pupil at the parent's request that does not meet any of the exceptions above must have the approval of the district of residence to count the pupil for membership purposes.

**C. Regulatory References**

State Aid Act Sections:

388.1603(7) 388.1606(4)  
388.1606(6) 388.1606(15)  
388.1705 388.1711  
388.1718

Revised School Code Sections:

380.1401 380.1411  
380.1406 380.1415  
380.1407 380.1416

Administrative Rules:

340.3  
340.5

Attorney General Opinions:

5004, May 1976 5112, Dec. 1976  
5574, Sept. 1979 925, June 1981  
5995, Oct. 1981 6316, Sept. 1985

Public Act

PA 227 of 2004

Court Cases:

University Center, Inc. v. Ann Arbor Public Schools. 386 Mich 210 (1971)